

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5482**

1. Opening of Meeting:

The Appeals Board convened at 10:30, May 8, 2007 in Sacramento, with Chair Ann M. Richardson presiding.

2. Roll Call: Members

Present

Absent

Ann Richardson, Chair

X

Terri Carbaugh, Vice Chair

X

Jack Cox

X

Liz Figueroa

X

Cindy Montañez

X

Fred Aguiar

X

3. Approval of the Minutes:

The minutes of the Board meetings on April 10, 2007, and April 26, 2007, were approved by all members.

4. Chair's Report:

Chair Richardson commented that Appellate Operations would be conducting one of their quarterly meetings in the near future, and encouraged Board members to attend if possible, as the meetings are very informative.

5. Board Member Reports:

No reports.

6. Chief Administrative Law Judge/Executive Director's Report:

Executive Director/Chief Administrative Law Judge Jay Arcellana reported that statewide supervisor meetings were conducted during the last month. The Chair and Vice-Chair's attendance at the LSSII's meeting was much appreciated.

Executive Director Arcellana reported that Marcus Gunkel, former PALJ in San Jose, has been selected as the new PALJ in Oakland, effective June 1, 2007, and thanked Amy Oppenheimer for her outstanding work in Oakland.

Executive Director Arcellana reported that the Agency received a commendation from the federal Department of Labor for meeting the case age standard of 30 days, while at the same time maintaining quality review standards. This is a significant achievement for a state with the highest volume of cases in the country.

Executive Director Arcellana commended Tim McArdle and ALJ Angela Bullard for their facilitation of a week of training for Illinois ALJs and support staff.

Executive Director Arcellana reported that the Board has entered into a new telephone interpreter service contract with low bidder Lan Do and Associates. The new provider offers improved service at lower cost than Language Line, the previous provider.

7. Branch Reports:

a. Executive Director/Chief Administrative Law Judge Jay Arcellana presented the Work Load Projection Report via PowerPoint presentation. (Attachment A)

Executive Director Arcellana presented the Budget Process and Status Report via PowerPoint presentation. (Attachment B)

Chair Richardson asked if the Agency has typically tested on a three-year exam cycle for promotions. Executive Director Arcellana responded that the frequency of promotional exams depends upon two factors, age of the current list and need.

Chair Richardson asked if more frequent exams should be conducted in light of greater attrition rates now occurring. Executive Director Arcellana replied that Senior Staff has been considering just such a possibility.

Chair Richardson asked how budget call letters are formulated, and who participates in the process.

Executive Director Arcellana responded that call letters are sent to all managers. Each cost center submits a completed call letter to the Budget Advisory Team, which makes recommendations to the Executive Director.

Chair Richardson asked if it is the PALJ who ultimately decides what goes before the Budget Committee. Executive Director Arcellana replied that at the local level it is the PALJ and the Staff Support Supervisor.

Member Figueroa inquired as to what has usually been the surplus in years past. Executive Director Arcellana responded that in years past the surplus has ranged anywhere from two to four million dollars.

Chair Richardson commended Executive Director Arcellana for keeping the Agency on budget.

Member Aguiar inquired if the majority of the 3 million increase in OE&E cost results from lease increases, to which Executive Director Arcellana responded that it has been primarily lease cost increases, but secondarily enhancements to the lines for the digital recordings.

Member Aguiar inquired as to the make-up of the Budget Advisory Committee, to which Executive Director Arcellana responded that the Budget Advisory Committee is comprised of Senior Staff members and/or their designated representative. In addition, the Budget Officer, the Workload Specialist, and Staffing Specialist staff the committee.

Member Figueroa inquired as to the amount of combined service years in Senior Staff. Executive Director Arcellana responded by giving a description of the members of Senior Staff and their years of experience in working on the budget.

Member Carbaugh inquired as to whether staff has been trained specifically on phone hearings. Executive Director Arcellana responded that the staff is currently in the process of such training.

Member Carbaugh stated she understood the Agency was not moving in the direction of phone hearings. Executive Director Arcellana responded that only outstations that are not fully utilized at least 65% of the time will give parties the option of a phone hearing.

Chair Richardson stated that the Board should seek office sharing as a way to save money and preserve in-person hearings. Telephone hearings may not really be economically beneficial to the Board due to the cost of copying and mailing records, continuances, etc. Executive Director Arcellana agreed, but added that the difficulty of one judge in an outstation is security and the lack of coverage should the need arise. Chair Richardson stated that her preference is to continue with in-person hearings, and Executive Director Arcellana concurred.

Member Figueroa asked about the practices of other states, to which the Executive Director Arcellana responded that Texas conducts all hearings by telephone.

Member Carbaugh inquired if there is a timeframe for implementation of the pilot for telephone hearings. Executive Director Arcellana responded that Victorville will be piloted, but the actual implementation of phone hearings will be determined by the outstations that are closed.

Member Carbaugh asked if video conferencing was considered. Executive Director Arcellana responded that it was looked into approximately 15 years ago and the result, then and today, is inadequate technology and the issue of getting the claimants to a site to video telecom from.

b. Deputy Chief ALJ, Appellate Operations Steve Angelides reported that in April registrations were 1,216, almost exactly at the fiscal year average of 1,220. April dispositions were 1,291, slightly above the fiscal year average of 1,223. The balance of open cases at the end of April stood at 1,881, slightly higher than the fiscal year average of 1,821. The average age of unemployment cases in appellate operations at the end of April was 33 days, slightly lower than the fiscal year average of 36 days.

The number of pages of transcripts typed by the Central Transcription Unit fell to an all-time low of 4,662 pages in April. This is not for lack of work in CTU, which currently has a 4 ½ week backlog, but because AO is so short-staffed that it has been borrowing heavily from CTU for the past several months, which situation is expected to continue.

Appellate Operation's new Legal Support Supervisor I, Victor Saldana, started last week and was introduced to the Board.

The Decision Tools pilot started yesterday in AO, Sacramento and other Venture Oaks Units after a couple of weeks of testing. The Decision Tools will enable users to more easily access, and IT to more easily manage, our standard paragraphs, form decisions, and precedent decisions. Preliminary results of the testing showed that all of the testers were either very satisfied or satisfied with the new Decision Tools. Special recognition is due to ALJ Catherine Leslie of the Los Angeles Office of Appeals, and Mary Mitchell of IT, who have spent the past several years laying the groundwork for this project in addition to doing their regular work.

c. Deputy Director Administrative Services Branch Pam Boston reported that Personnel is conducting two promotional exams within the next couple of weeks, for Office and Associate Information Systems Analysts.

Deputy Director Boston also reported that IT has two new employees: Antonio Buenrostro from AO and Ricardo Vega.

d. Deputy Director Planning and Program Management Branch Mary Walton-Simons reported on the following P&PM Branch items:

Hearing Information Pamphlet Update

On April 2nd, all offices of appeals began mailing the new Hearing Information Pamphlet with the hearing notice. Within one week, the CUIAB public website received a total of 2216 hits, a 5% increase in activity. The new pamphlet includes the web address for CUIAB's internet site as well as the web address for the California Code of Regulations.

Upward Mobility Lunchtime Seminars

Starting today and throughout the month of May, the PPM Branch will be conducting Upward Mobility Lunchtime Seminars on Tuesdays and Thursdays using the Polycoms. The lunchtime seminars will cover:

- How the program works
- The benefits of the program
- Who is eligible
- How to get started
- How to complete the forms
- Other related information, plus
- Questions & Answer time

Deputy Director Walton-Simons expressed reorganization to the manager of the Strategic Planning Unit, Ralyne Long, who developed the lunchtime seminar concept along with the assistance of her UPM coordinators, Anissa Michell and Alfredo Garcia.

Chair Richardson requested an email be sent to "All Employees" to announce the May lunchtime seminars.

Budget Advisory Committee Meetings

On April 30th and May 1st, the Budget Officer, Renee Erwin, facilitated the Budget Advisory Committee meeting. All branches had to make concessions/compromises in an effort to stay within the 2007-08 budget. The next meeting is scheduled later in May.

Chair Richardson expressed the Board's appreciation to Renee Erwin.

Information Security Officer Appointment announcement

Our former Information Security Officer, Michele Robinson, transferred to the Department of Finance, Office of Technology Review, Oversight, and Security in April. The Planning & Program Management Branch completed the hiring process to fill this position and is pleased to announce the appointment of Ryan Howland to this position. Ryan has been with the CUIAB Information Technology Division since 2001.

The Information Security Officer is a critical position which oversees agency compliance with policies and procedures regarding its security of information assets and risk management.

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton reported that four new cases were filed in April and four cases were closed. In three of the four cases the Court upheld the Board's decision, but in the fourth case the Board was reversed. There was nothing significant about the case in which the Board was reversed, and it was simply a matter of the judge viewing the facts differently than the Board. There were no legal issues involved.

Regarding Board workload, Chief Counsel Hilton reported that all the Board Members are now carrying an equal case load, unless they were on leave or vacation.

9. Unfinished & New Business:

Consideration of NCM Direct Delivery, AO-110555, relating to the status of delivery drivers, for designation as a precedent decision.

Discussion:

Member Aguiar inquired as to how the Air Couriers case that was recently affirmed in the Court of Appeals differs from the case under consideration.

Chief Counsel Hilton responded that the primary difference is that the Air Couriers case did not involve NICA, the National Independent Contractors Association. This is an organization that assists businesses in the conversion of workers from employment status to independent contractor status, and further assists in handling those workers after the conversion.

Chair Richardson added that there is no guarantee that the District Court of Appeal will publish the Air Couriers decision. Regardless, we now know that CUIAB's decision in NCM is consistent with the Court of Appeals decision in Air Couriers. Designation of NCM as a precedent will provide guidance to our judges with regard to an ongoing issue. While the courts are not required to follow the Board precedent decisions, they do give weight to them.

Member Aguiar asked if the Board adopts the proposed precedent decision would that make the field decision an automatic decision. Chief Counsel Hilton responded in the negative stating that each case has different factual situations. The ALJ in the field will assess that factual situation in determining whether the ruling in NCM or Air Courier decisions apply to the particular case. By designating NCM as a precedent decision it will give the ALJs additional citable authority in rendering decisions.

Member Aguiar asked about the current status of the NCM case. Chief Counsel Hilton responded that it is a final Board decision, but it can still be taken to Court if the petitioner pays the taxes and then files for a refund.

Member Montañez asked if there are currently any cases in this area that have gone the other way. Chief Counsel Hilton responded that to his knowledge there have been a few decisions at the lower level where the ALJ looked at facts and found the employees to be independent contractors.

Chief Counsel Hilton stated it would be very helpful to the Board and to the ALJs in the field to have a citable decision in this area.

Discussion having concluded, Chair Richardson called for a vote. The board voted unanimously to adopt the NCM Delivery case as a precedent tax decision.

10. Public Comment:

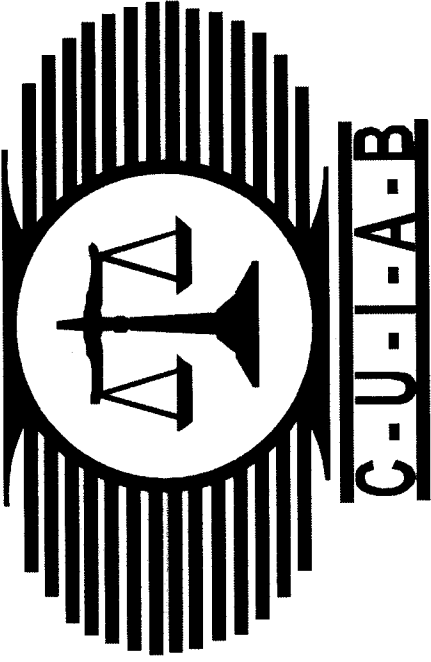
ALJ Geiger commented that she was called for jury duty on February 20th and that she completed it on May 7. She thanked Jay, Steve and the Board for being very supportive and stated that they will be scheduling some Board training.

Member Carbaugh introduced Mr. Jay Kenshaw, a friend and colleague in the audience, and extended her welcome to him.

Chair Richardson introduced another observer in attendance, Marianne Pillen, who is visiting Ms. Richardson from Switzerland.

11. Closed Session:

The regularly scheduled Board meeting adjourned, and there were no closed session items scheduled.



UI and DI WORKLOAD COMPARISONS

Revised Actuals

FIELD OPERATIONS WORKLOAD REPORT FOR APRIL

PROGRAMS	VERIFICATIONS	DISPOSITIONS	BALANCE
UI	20,455	17,096	28,265
DI	1,599	1,674	1,888
TAX	203	159	2,242
SUBTOTAL	22,257	18,929	32,395
(All Programs) TOTAL	22,605	19,422	35,419

UI and DI Workload Comparisons - Revise Projections vs. Actuals

Through April 2007

MAY 2006 REVISE - PROJECTIONS

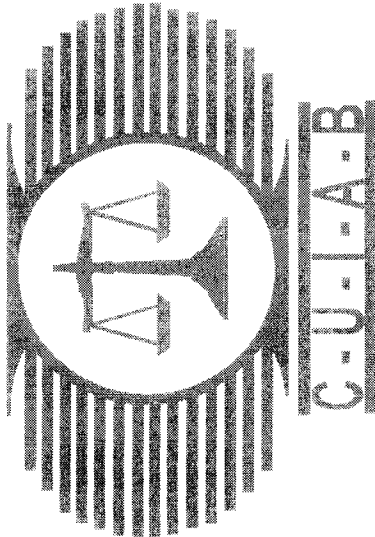
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
UI	19,870	19,870	19,870	18,960	18,960	18,960	20,467	20,467	20,467	19,067	19,067	19,067	235,092
DI	1,923	1,923	1,923	1,690	1,690	1,690	2,010	2,010	2,010	1,990	1,990	1,990	22,839
TOTAL	21,793	21,793	21,793	20,650	20,650	20,650	22,477	22,477	22,477	21,057	21,057	21,057	257,931
QTR	65,379			61,950			67,431				63,171		257,931

OCTOBER 2006 REVISE - PROJECTIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
UI	20,800	20,800	20,800	18,967	18,967	18,967	17,967	17,967	17,967	16,967	16,967	16,967	224,103
DI	1,829	1,829	1,829	1,734	1,734	1,734	1,615	1,615	1,615	1,716	1,716	1,716	20,682
TOTAL	22,629	22,629	22,629	20,701	20,701	20,701	19,582	19,582	19,582	18,683	18,683	18,683	244,785
QTR	67,887			62,103			58,746				56,049		244,785

CUIAB 2006-07 DISPOSITIONS - ACTUALS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	October 06 Projections			Total
										April	May	June	
UI	13,805	21,841	18,509	20,969	19,592	19,022	20,712	19,758	24,716	17,096	16,967	16,967	229,954
DI	2,493	2,055	1,974	1,877	1,816	1,659	1,864	1,735	1,988	1,674	1,716	1,716	22,567
TOTAL	16,298	23,896	20,483	22,846	21,408	20,681	22,576	21,493	26,704	18,770	18,683	18,683	252,521
QTR	60,677			64,935			70,773				56,136		252,521



BOARD MEETING

May 8, 2007

BUDGET PROCESS & STATUS REPORT

I. CUIAB's Budget Philosophy

- A. Three year planning cycle
 - i. Stagger large purchases every three years
 - ii. Budget a three year exam cycle
 - a. Exam for PALJs, Managers, and Supervisors for succession planning
- B. Build a “budget reserve” for the fourth quarter
- C. Maintain a flexible workforce with reliance on retired annuitants and permanent intermittents
- D. Budget long term, operational changes that advance CUIAB
 - i. Make CUIAB web based and paperless
 - ii. Make CUIAB environmentally friendly
 - iii. Make CUIAB more efficient through regionalization, centralization, and technological concepts
- E. Invest in CUIAB staff
 - i. Enhance recruitment and retention through programs such as upward mobility
- F. A transparent budget process with input from all levels of CUIAB
 - i. Utilization of Call Letters
- G. Make adjustments as necessary throughout the budget year

II. Status of 2006-07 Budget

- A. Our budget for the current fiscal year is \$70 million
 - i. 80% of the budget is salaries, wages and benefits totaling \$55.7 million
 - i. 20% of the budget is OE&E totaling \$14.3 million
 - a. \$8.5 million in leases

II. Status of 2006-07 Budget

(continued)

- B. The 2006-07 budget is projected to have a year end surplus of \$.5 - \$1 million
 - i. This surplus is based upon unexpected, increased revenues and planned reduced expenditures

III. The 2007-08 Budget

- A. The actual process begins in January
 - i. The Governor releases proposed budget
 - a. CUIAB's budget based upon workload projections
 - ii. Call letters go out to cost centers
 - iii. The May Revise projections finalize the budget
 - iv. Budget Advisory Committee reviews call letters and makes recommendations to the Executive Director
 - v. Executive Director presents the budget to the Board

III. The 2007-08 Budget

(continued)

- B. The May Revise projections establish a \$70.4 million budget for 2007-08.
 - i. This reflects an increase of \$432,500 from 2006-07 based upon a projected workload increase of 2,488 cases.
- C. However, CUIAB's projected costs for 2007-08 have increased by \$11 million over last year's budget
 - i. COLAs have increased the Personnel budget \$4.8 million
 - ii. Projected staff promotions and requests to fill existing vacant positions amount to \$3.2 million
 - iii. OE&E costs have increased \$3 million

III. The 2007-08 Budget

(continued)

D. Budget Call Letter totals need to be reduced by \$11 million

- i. Budget Advisory Committee has recommended the following:**
 - a. Utilizing this year's surplus on some of next year's OE&E expenditures**
 - b. A freeze on outside hires at support staff level**
 - c. Defer proposed enhancements to existing facilities and review the need for existing outstations**
- ii. These recommendations approximate \$5 million**

III. The 2007-08 Budget

(continued)

- E. Strategies to make up the difference**
 - i. Cover the shortfall as soon as possible**
 - ii. Facilities account for \$8.9 million**
 - a. \$6.9 million in headquarter offices**
 - b. \$1.3 million in outstations**
 - iii. Six headquarter offices and eleven outstations are in the soft term of their leases**
 - i. Make other adjustments as necessary**
 - a. Defer IT purchases**
 - b. Reduce hours of temporary help employees**
 - c. Reduce travel / meetings**
 - ii. Review our methods of delivering services**

IV. The Bottom Line

- A. The good: no layoffs
- B. The bad: facilities, facilities, facilities
 - i. Some headquarters need to be downsized and some outstations need to be closed
- C. The ugly: caseload increase

V. The Prognosis for 2007-08

A. As public servants, we serve the unemployed and disabled. We may be broke but our spirits are not broken. We will continue to serve with pride and make 2007-08 a success.